

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

FAHAD SIDDIQUI, et al.,

Plaintiffs,

DECISION AND ORDER

06-CV-6473L

v.

AIRLIE OPPORTUNITY MASTER FUND, LTD.,
ARH MORTGAGE INC., WDM FUND, L.P.,
STEVE Y. KHOSHABE, JOSEPH KHOSHABE AND
JASON K. SCHIFFMAN,

Defendants.

Plaintiffs in this action have moved for entry of default and for default judgment against defendants Steve Y. Khoshabe, Joseph Khoshabe, and Jason K. Schiffman, pursuant to FED. R. CIV. P. 55. (Dkt. #5). Plaintiffs also moved for an expedited hearing, pursuant to LOCAL R. CIV. P. 7.1(d). (Dkt. #8).

Plaintiffs' motion for an expedited hearing (**Dkt. #8**) is **GRANTED, in part**.

Plaintiffs' motion for entry of default and for default judgment (**Dkt. #5**) is **GRANTED in part and DENIED in part**. Plaintiffs have shown entitlement to entry of default by the Clerk of the Court pursuant to FED. R. CIV. P. 55(a) against defendants Steve Y. Khoshabe, Joseph Khoshabe, and Jason K. Schiffman . Although such a request normally is made directly to the Clerk, the Court will interpret the instant motion as such a request.

Plaintiffs' motion for default judgment, however, is premature. LOCAL R. CIV. P. 55(b) provides that “[a]n application to the Court for entry of default judgment, pursuant to Federal Rule of Civil Procedure 55(b)(2), shall be accompanied by a Clerk's certificate noting the entry of the default and by a copy of the pleading to which no response has been made.” The Clerk has not yet entered default pursuant to FED. R. CIV. P. 55(a). Plaintiffs also failed to attach a copy of the class action complaint to their motion.

Once the Clerk of the Court enters default, plaintiffs may refile their motion for default judgment in accordance with FED. R. CIV. P. 55(b) and LOCAL R. CIV. P. 55(b).

The Clerk of the Court is hereby directed to enter default pursuant to FED. R. CIV. P. 55(a) against defendants Steve Y. Khoshabe, Joseph Khoshabe, and Jason K. Schiffman.

IT IS SO ORDERED.



DAVID G. LARIMER
United States District Judge

Dated: Rochester, New York
December 14, 2006.